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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,089	08/22/2003	Gary Crawford	CITC-1-1010	9601

25315 7590 10/03/2005

BLACK LOWE & GRAHAM, PLLC  
701 FIFTH AVENUE  
SUITE 4800  
SEATTLE, WA 98104

EXAMINER

HOGAN, JAMES SEAN

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/646,089

Applicant(s)

CRAWFORD, GARY

Examiner

James S. Hogan

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

~~A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.~~

~~Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.~~

~~If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.~~

~~Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).~~

~~Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).~~

## Status

1) ☒ Responsive to communication(s) filed on amendment received 08/04/2005.

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 2-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 2-16 is/are allowed.

6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date. \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

Claims 2-16 are allowed.

The following is an examiner's statement of reasons for allowance: For claims 2-7, the prior art fails to disclose or render obvious a method of dispersing a bird repellent in a system providing, a tank, placing a quantity of bird repellent in liquid form inside the tank, providing a nozzle assembly where at least one nozzle is in fluid communication with the interior of the tank, and providing an air pressurization source where bird repellent is discharged into the interior of the tank by moving pressurized air over the discharge aperture of the at least one nozzle to atomize the repellent, where the atomizing step results in the atomized repellent having a particle size of less than or equal to 20 $\mu$ m. For claim 16, the prior art fails to disclose or render obvious a method of dispersing a bird repellent in a system providing, a tank, placing a quantity of bird repellent in liquid form inside the tank, providing a nozzle assembly where at least one nozzle is in fluid communication with the interior of the tank, and providing an air pressurization source where bird repellent is discharged into the interior of the tank by moving pressurized air over the discharge aperture of the at least one nozzle to atomize the repellent, where the repellent is then filtered through a filter member. For claims 8-15, the prior art fails to disclose or render obvious a corresponding apparatus to perform the methods outlined above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Suspension of Prosecution***

All claims are allowable. However, due to a potential interference, *ex parte* prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS from the date of this letter. Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JSH  
09/14/2005

A handwritten signature in black ink, appearing to read 'D. Scherbel', with a stylized, cursive script.

**David A. Scherbel**  
**Supervisory Patent Examiner**  
**Group 3700**